

## INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

## TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA

We, the undersigned, registered, qualified voters of California, residents of \_\_\_\_\_ County (or City and County), hereby propose amendments to the Constitution of the State of California, relating to taxation, and petition the Secretary of State to submit the name to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed full title and text of the measure reads as follows:

SECTION 1. The people of the State of California find and declare all of the following:

- (a) The automobile is recognized as a necessity of life for most Californians.
- (b) In 2001, vehicle license fee were substantially reduced by legislative actions that promised permanent relief.
- (c) Since these actions, there have been continuous efforts by members of the Legislature and the Governor's Office to again double or even triple these fees without a two-thirds vote of the members of the Legislature by redefining or restructuring the vehicle license fee to make it subject to majority vote increase rules.

(d) California's poor and middle-income families have no choice but to write out a sizeable check every year to the Department of Motor Vehicles for this unfair tax on a necessity of life.

(e) None of the money collected from the vehicle license fee is used for state highways, but rather is diverted to other government spending programs.

(f) Taxpayer-sponsored initiatives, including Proposition 13 and Proposition 218, were intended to provide a reduction in taxes as well as protection from unfair or excessive fees.

(g) Both the State of California and its political subdivisions have instead increased our tax burden by imposing numerous "fees" and "charges" that frustrate the purposes of those measures and deprive Californians of the security of being able to afford an adequate family car by exacting excessive "fees" on that car without the required two-thirds vote of the Legislature to levy those "fees" and "charges."

(h) By purposefully labeling certain governmental exactions as "fees" and "charges" instead of "taxes," government has wrongfully deprived Californians of their rights under laws that restrict the impositions of taxes, including the important protection of a two-thirds vote of the Legislature to change the method of levying a tax or increasing the rate of a tax..

(i) A real threat exists that the constitutional and statutory laws designed to protect Californians from excessive taxations of their automobile will be rendered ineffective unless those protections are extended to "fees" and "charges."

(j) The changes proposed by this measure will permanently eliminate the destructive and unfair vehicle license fee, once and for all, and place controls on

government's ability to impose "fees" and "charges" on their family automobile, or any other family product without a two-thirds vote of the Legislature.

SEC. 2. Section 15 of Article XI of the California Constitution is repealed.

~~SEC. 15. (a) All revenues from taxes imposed pursuant to the Vehicle License Fee Law, or its successor, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, shall be allocated to counties and cities according to statute.~~

~~(b) This section shall apply to those taxes imposed pursuant to that law on and after July 1 following the approval of this section by the voters.~~

SEC. 3. Section 3.1 is added to Article XIII of the California Constitution, to read:

SEC. 3.1 Any vehicle that is subject to registration under state law is exempt from property taxation.

SEC. 4. Article XIII E is added to the California Constitution, to read:

## ARTICLE XIII E

### DEFINITION OF TAXES AND TAX-RELATED ACTIONS

SECTION 1. For purposes of this article:

(a) (1) "Governmental entity" means the State or any entity of state government, a county, a city and county, a city, a special district, or any local governmental agency.

(2) "County" and "city and county" include a charter county and a charter city and county, and "city" includes a charter city.

(b) "Special district" means an agency of the State, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited geographical boundaries, including, but not limited to, school districts and redevelopment agencies.

SEC. 2. (a) As used in this Constitution, "tax" means, except as provided in subdivision (b), any monetary exaction imposed by a governmental entity.

(b) "Tax" does not include any of the following:

(1) A monetary exaction imposed by a governmental entity for a specific service provided to, a specific privilege granted to, or a benefit conferred upon the payer by the imposed governmental entity, if the amount of the exaction does not exceed the cost to the governmental entity of providing the service or granting the privilege to, or conferring the benefit upon, the payer.

(2) A monetary exaction imposed by a governmental entity for the reasonable costs of the direct regulation of the payer, if the amount of the exaction does not exceed the reasonable cost to the governmental entity of directly regulating the payer. For purposes of this paragraph, the "direct regulation of the payer" is limited to the regulation of the payer's activities, the licensure of the payer, inspection and audit, and any administrative adjudication arising from those duties.

(3) An assessment, or fee or charge, as defined by Article XIII D.

(4) A monetary exaction imposed by a governmental entity as a condition of property development.

(5) Fines, penalties, or other monetary exactions imposed by the judicial branch of government.

SEC. 3. (a) Subject to Section 32 of Article XIII, any person, entity, or class of persons or entities that is liable for payment of a monetary exaction imposed by a governmental entity may maintain a legal or equitable action in a court of competent jurisdiction to invalidate that monetary exaction on the basis that the exaction, or the manner in which it was imposed, does not conform to the requirements of law.

(b) In any action described in subdivision (a), the governmental entity that imposed the monetary exaction shall bear the burden of proof to demonstrate that the monetary exaction, or manner in which it was imposed, conforms to the requirements of law.

SEC. 4. This article applies to the State and all of its political subdivisions, including a county, city, city and county, a special district, or any other state, local, or regional governmental entity.

SEC. 5. Article XXIII is added to the California Constitution, to read:

## ARTICLE XXIII

### VEHICLE LICENSE FEE ELIMINATION AND LOCAL FISCAL RELIEF

SECTION 1. A vehicle license fee, or any other tax in lieu of an ad valorem property tax, may not be imposed upon any vehicle that is subject to registration under state law.

SEC. 2. (a) (1) On or before March 15, 2004, and on or before the 15<sup>th</sup> of each month thereafter, there shall be transferred from the Retail Sales Tax Fund, or any successor fund, and deposited into the Local Government Independence Fund, which is

hereby created, an amount equal to the total amount of money, including, but not limited to, money deposited in the Local Revenue Fund, that was allocated to cities and counties pursuant to the Vehicle License Fee Law during the entire corresponding calendar month in 2003-03 fiscal year, as annually adjusted for the change in population, as defined with respect to the State in Section 8 of Article XIII B, and for the lesser of the following:

(A) The percentage change, rounded to the nearest one-thousandth of 1 percent, in the United States consumer price index, or any successor to that index, from January 1 to December 31, inclusive, of the most recent calendar year that ended prior to the beginning of the fiscal year.

(B) The percentage change, rounded to the nearest one-thousandth of 1 percent, in California per capita income from January 1 to December 31, inclusive, of the most recent calendar year that ended prior to the beginning of the fiscal year.

(2) Before March 15, 2004, and before July 15<sup>th</sup> of each fiscal year thereafter, the Controller shall calculate the amounts to be transferred pursuant to paragraph (1) for that fiscal year, and shall report those amounts to the Treasurer.

(b) The money in the Local Government Independence Fund is hereby continuously appropriated to the Controller for allocation exclusively to counties and cities in the manner specified in the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code), as it read on January 1, 2003. Allocations under this subdivision to counties and cities include deposits in the Local Revenue Fund.

(c) On and after March 3, 2004, this section is the exclusive legal authority for the allocation to counties and cities of moneys that are so allocated in lieu of the receipt by counties and cities of vehicle license fee revenues.

SEC. 6. The purpose of this measure is to abolish the vehicle license fee and to prevent any further taxation of the vehicles that are subject to registration under state law, and to provide a comprehensive definition of the term "tax" that includes the broadest possible range of governmental monetary exactions, unless expressly exempted. This measure shall be liberally construed to effectuate these purposes.

SEC. 7. The provisions of this measure are severable. If any provisions of this measure or applications of the provisions of this measure is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.